

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>CHARLES RAY JOHNSON, Petitioner, vs. DOUG CLARK and SOUTH DAKOTA ATTORNEY GENERAL, Respondents.</p>	<p>4:21-CV-04116-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE</p>
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Petitioner, Charles Ray Johnson, filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254. Docket 1. Respondents move to dismiss the petition. Docket 7. The court referred the petition to a United States magistrate judge under 28 U.S.C. § 636(b) and Rule 8 of the Rules Governing Section 2254 Cases in United States District Courts.

Magistrate Judge Veronica L. Duffy filed a report and recommendation recommending that Johnson's petition for habeas corpus relief be dismissed because Johnson's claims are time-barred and procedurally defaulted. Docket 13. Objections to the report and recommendation were due by November 5, 2021. The time for objections has passed. Johnson did not file objections to the report and recommendation. The court has considered the case de novo and adopts the report and recommendation in full. Thus, it is

ORDERED that the magistrate judge's report and recommendation (Docket 13) is adopted in full. Respondents' motion to dismiss (Docket 7) is granted. Petitioner's pro se petition for habeas corpus is denied without prejudice.

IT IS FURTHER ORDERED that based upon the reasons stated and under Fed. R. App. P. 22(b), the court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Thus, a certificate of appealability is denied.

DATED this 1st day of December, 2021.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE